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Attorneys for Plaintiff  
 WHITTLESTONE, INC.

**FILED**  
 JUN 29 2009  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

WHITTLESTONE, INC., a California  
 Corporation,

Plaintiffs,

vs.

HANDI-CRAFT COMPANY, a Missouri  
 Corporation,

Defendants.

Case No. C08-04193 SBA

**NOTICE OF APPEAL**

Notice is hereby given that Plaintiff Whittlestone, Inc. appeals to the United States Court of Appeals for the Ninth Circuit from the final Judgment filed on June 3, 2009, the Order granting defendant's motion to strike filed on November 19, 2008, the Order denying plaintiff's motion for leave to file a motion for reconsideration or clarification filed on February 11, 2009, and any other Orders adjudicating plaintiff's claims in this action.

Dated: June 29, 2009

GREENAN, PEFFER, SALLANDER & LALLY LLP

By:

Robert L. Sallander Jr.

Attorneys for WHITTLESTONE, INC.

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 Peffer,  
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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. \_\_\_\_\_

WHITTLESTONE, INC.,	)
	)
Plaintiff and Appellant,	)
	)
v.	)
	)
HANDI-CRAFT CO.,	)
	)
Defendant and Appellee.	)
_____	)

**APPELLANT'S REPRESENTATION STATEMENT**

In the Appeal from the Order of the  
United States District Court for the  
Northern District of California  
Hon. Saundra Brown Armstrong, Judge  
D.C. No. C 08-4193-SBA

Robert L. Sallander Jr.  
State Bar No. 118352  
John P. Makin  
State Bar No. 88853  
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Attorneys for Plaintiff and Appellant  
WHITTLESTONE, INC.

Pursuant to Circuit Rule 3-2(b) of the United States Court of Appeals for the Ninth Circuit, Appellant WHITTLESTONE, INC. hereby identifies all parties and their representative counsel in this appeal, including appellate counsel whom Appellant will be substituting in the appeal

Plaintiff and Appellant  
WHITTLESTONE, INC.

Appellate Counsel for Plaintiff and Appellant  
Russell J. Hanlon  
Law Offices of Russell J. Hanlon  
95 South Market Street, Suite 300  
San Jose, CA 95113  
Telephone: 408-975-7777

Defendant and Appellee  
HANDI-CRAFT CO.

Appellate Counsel for Defendant and Appellee  
Dean Pollack, Esq.  
Rohit Sabnis, Esq.  
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Michael A. Vitale, Esq.  
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100 North Broadway, 14th Floor  
St. Louis, MO 63102-2728  
Telephone: 314-231-6700

Dated: June 29, 2009

GREENAN, PEFFER, SALLANDER & LALLY

By:



ROBERT L. SALLANDER, JR.

Attorneys for Plaintiff and Appellant  
WHITTLESTONE, INC.

**PROOF OF SERVICE**

I, the undersigned, hereby declare:

I am employed in the County of Contra Costa, State of California, in the office of a member of the bar of this court, at whose direction the following service was made. I am over the age of 18 and not a party to this legal action. My business address is: Greenan, Pepper, Sallander & Lally, 6111 Bollinger Canyon Road, Suite 500, San Ramon, California 94583.

On the date given below, from the business address indicated above, I served a true and correct copy of:

**NOTICE OF APPEAL  
(WITH APPELLANT'S REPRESENTATION STATEMENT)**

on the interested parties in this matter by enclosing said document(s) in a sealed envelope, addressed as follows:

Dean Pollack, Esq. Rohit Sabnis, Esq. BURNHAM BROWN A Professional Corporation 1901 Harrison Street, 11 <sup>th</sup> Floor Oakland, CA 94604 Telephone: 510-444-6800 Facsimile: 510-835-6666 <u>rsabnis@burnhambrown.com</u>	Peter W. Herzog, Esq. Michael A. Vitale, Esq. HERZOG CREBS LLP 100 North Broadway, 14th Floor St. Louis, MO 63102-2728 Telephone: 314-231-6700 Facsimile: 314-231-4656 <u>pwh@herzogcrebs.com</u> <u>mav@herzogcrebs.com</u>
<b>ATTORNEYS FOR HANDI-CRAFT</b>	<b>ATTORNEYS FOR HANDI-CRAFT</b>
Russell J. Hanlon LAW OFFICES OF RUSSELL J. HANLON 95 South Market Street, Suite 300 San Jose, CA 95113 Telephone: 408-975-7777 Facsimile: 408-995-3202 <u>russellhanlon@yahoo.com</u>	
<b>ATTORNEY FOR WHITTLESTONE</b>	

**[X] [BY MAIL]** I am readily familiar with the business practice of Greenan, Pepper, Sallander & Lally for collection and processing of correspondence for mailing with the United States Postal Service, wherein the correspondence would be deposited with the United States Postal Service that same day, in the ordinary course of business. I served such envelope(s) in accordance with said business practice. [FRCP 5(b)(2)(C)] on **June 29, 2009**

1 [ ] **[BY FACSIMILE]** I placed said document(s) to be transmitted via facsimile to the  
2 party (ies) at the facsimile number(s) indicated. Said transmission was reported as  
3 complete and without error by the transmitting machine. A copy of the transmission  
4 report is attached hereto. [FRCP 5(b)(2)(F)].

5 I declare under penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct, and that this declaration was executed on **June 29, 2009** at San  
7 Ramon, California.

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Court Name: U.S. District Court, NDCA  
Division: 4  
Receipt Number: 44611003805  
Cashier ID: lenahac  
Transaction Date: 06/29/2009  
Payer Name: Greenan Feffer et al

NOTICE OF APPEAL/DOCKETING FEE  
For: Whittlestone, Inc.  
Case/Party: D-CAN-4-00-CV-004193-001  
Amount: \$455.00

CHECK  
Check/Money Order Num: 8047  
Amt Tendered: \$450.00  
CASH  
Amt Tendered: \$5.00

Total Due: \$455.00  
Total Tendered: \$455.00  
Change Amt: \$0.00

GSA

\$5.00 cash from Robert Capurro, PO  
Box 277, Danville, CA 94526-0277.

Checks and drafts are accepted  
subject to collections and full  
credit will only be given when the  
check or draft has been accepted by  
the financial institution on which  
it was drawn.